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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,259	09/16/2003	Norman S. Martucci	79287.21520	1456
30734 7590 03/23/2007 BAKER & HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304			EXAMINER AFTERGUT, JEFF H	
			ART UNIT	PAPER NUMBER
			1733	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/663,259

Applicant(s)

MARTUCCI, NORMAN S.

Examiner

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-13, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 13, 16, 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 8, the language "the emulsion" appears. This language lacks proper antecedent as no "emulsion" has been previously defined in the claim. It is suggested that applicant recite that there is an emulsion in a bath through which the assembly is passed as it passes the bending devices.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 13, 16 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The applicant has presented amended independent claims 1 and 13 for consideration and has added to each of the claims that the "bending devices are adjustable "in at least two directions" and additionally provided a new drawing which is labeled Figure 3 for consideration (to show the adjustability in "at least two directions".

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The new drawing appears only to show adjustability in two directions and a very specific manner of arranging the bending devices to allow for adjustability in the horizontal and vertical direction. The applicant is advised that the original disclosure does not support the specific manner in which the bending devices are adjusted as depicted. It should be noted that Figure 3 as provided will not be entered as a new Figure and that Figure 2 should be amended to provide crossing arrows (one arrow in the horizontal plane and another in the vertical plane) adjacent the bending devices in Figure 2 and that the description be altered to state on page 8 that the vertical and horizontal directional adjustments are depicted by the arrows in the Figure. It should be additionally noted that Figure 3 does NOT depict the invention as claimed as the Figure does not provide for more than two directional movement ("at least two directions" infers that there are more than two directions of movement of the bending devices which is not supported by the original disclosure, see below).

Applicant is additionally advised that the original disclosure as presented provided evidence that applicant was in possession of movement of the bending devices in two direction (horizontal and vertical) but not more than two directions (not three or four directions for example). Both claims have been amended to recite "at least two directions", however the disclosure only supports movement in two directions (horizontal and vertical) as defined on page 8 of the disclosure.

Drawings

5. The proposed new drawing has not been entered, as it appears to add new matter to the disclosure as identifying the specific manner in which the bending devices

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are manipulated in the horizontal and vertical directions. It is suggested that Figure 1 be amended by including crossing arrows adjacent or over the bending devices in order to signify that the bending devices can be moved vertically and horizontally in a schematic fashion rather than depicting specific structure for provision of the same. Applicant is additionally advised in this regard that the reference to Figure 3 in the amendment dated

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of Japanese patent 2001-289366 or Mathews et al (US 2002/0056511) in view of any one of Bates et al '743 Bates et al '282, Marzocchi et al "830, Marzocchi et al '123 or Marzocchi '452 further taken with Gareis and Azari for the same reasons as expressed in paragraphs 2 and 3 of the Office action dated 11/1/06.

Election/Restrictions

8. Claims 6-12 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4-28-06.

Response to Arguments

9. Applicant's arguments filed 2-1-07 have been fully considered but they are not persuasive.

The applicant argues that the reference to Azari is not relevant to the manufacture of a braided hose assembly wherein one applied a braid upon an inner liner and subsequently subjected the braided assembly to impregnation via passing the braided assembly through a bath containing bending devices within the bath. The applicant also argues that the reference failed to teach that the pins 77 there were adjustable or that they were adjustable in at least two directions. These arguments are not well taken.

Regarding applicant's first argument, the applicant is advised that one skilled in the art at the time the invention was made would have readily recognized that Azari was relevant to the question of obviousness. While it is agreed that the reference is not making a tubular assembly which included an inner liner and braiding thereon, the reference is clearly concerned with impregnation of fibers in a resin material where the fibers were fed over and under the pins which were used to spread the fibers apart and enhance the impregnation of the fibers with the resin. Such was known for braided assemblies as suggested by Gareis and one skilled in the art would have performed the passing of the fiber assembly over and under the bending devices in the resin in order to allow the resin to better penetrate the assembly as taught by any one of Bates et al '743 Bates et al '282, Marzocchi et al '830, Marzocchi et al '123 or Marzocchi '452. The applicant is advised that one skilled in the art would have considered the reference to Azari relevant to the processing performed on the fibers which were fed under and over the bending devices during the coating of the fibers with the resin. What one did with the impregnated fibers subsequent to passing over and under the bending means is

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immaterial to whether the teachings of Azari was relevant to the question of obviousness.

It should be noted that the reference to Azari clearly suggested that one skilled in the art would have varied the spacing of the pins 77 within the impregnating assembly.

More specifically, the reference taught that:

"The die assembly 30 may also be altered by varying the pin 77 spacing to also affect the tension on the fibers 16 as well as the rate at which the fibers 16 may be fed through the assembly 30." (column 6, lines 52-55)

"Furthermore the number of pins 77 in each section of the die assembly may be changed in order to improve wetting of the fibers by increasing the number of surfaces that the fibers 16 must travel over and under. However, it will be appreciated that increasing the number of pins may have the disadvantage of affecting the rate at which the fibers 16 may be fed through the die assembly 30." (column 6, lines 61-68)

"Of course, it will be further appreciated that it may be possible to alter the relative positions and diameters of the pins 77 so as to overcome any disadvantage that may result from adding additional pins." (column 7, lines 1-4).

Taking these teachings in consideration of the prior art "as a whole" one would have understood that Azari suggested that the positioning of the pins within the impregnation device resulted ones ability to overcome rate of production speeds while at the same time allowing for increases in tension and improved impregnation between the fibers.

While the reference did not expressly state that the pin placement was "adjustable", the reference clearly envisioned varying the position of the pins within the assembly in order to optimize the rate of production and the degree of impregnation between the fibers (as a function of the increase in tension the fibers were placed under). As such, the positioning of the pins within the arrangement are clearly a component which has a direct result in the altering of the rate of production of the coated assembly and the

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degree of impregnation therein. Note that varying the position (spacing) of the pins is certainly an adjustment in the pin spacing. While the reference did not expressly show how one adjusted the spacing of the pins 77 therein, it should be recognized that applicant's themselves did not expressly show how their bending devices were adjusted in the horizontal and vertical direction. It should be noted that adjustment of the spacing in Azari would have entailed repositioning of the pins horizontally as well as vertically (as these are the only planes for spacing which would appear to impact impregnation and feed rate). Since it appears from a fair reading of Azari that one skilled in the art would have desired to be able to vary the position of the pins in the die (to optimize the feed rate and the degree of impregnation), one viewing the reference would have certainly provided the individual pins with adjustability so that the spacing of the pins could be changed to alter their positions within the die. Additionally, one skilled in the art would have provided this adjustability in order to optimize ones ability to better regulate feed through rate as well as degree of impregnation. Inasmuch as one would have known how to provide for the adjustment of the bending devices in applicant's disclosure, one skilled in the art would have likewise known how to provide adjustability for the pins in Azari. Applicant's arguments regarding the lack of teaching for the adjustability of the bending devices in the prior art has not been found to be persuasive.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jeff H. Aftergut
Primary Examiner
Art Unit 1733

JHA
March 20, 2007

U.S. Patent Application 10/663,259 filed September 16,
2003; Norman S. Martucci, entitled "Method of Making
Coated Braided Hose Assembly"; Attorney Docket:
79287.21520

NEW INFORMAL DRAWING FIG. 3

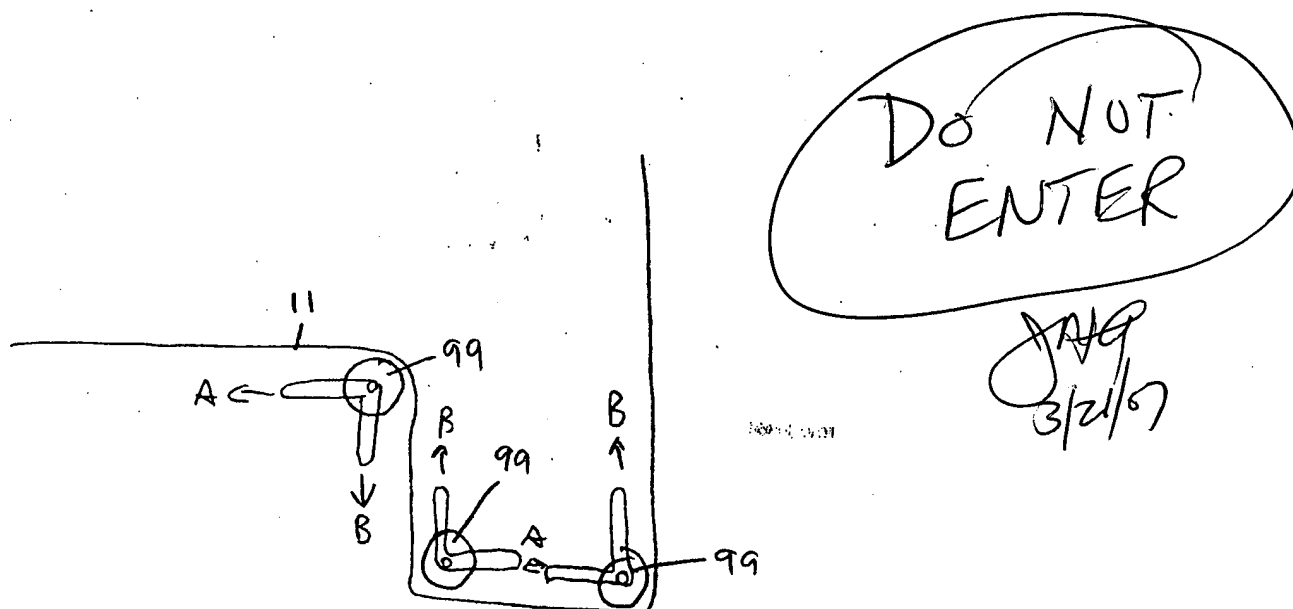


FIG. 3

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